

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

FILED

ANTHONY DeFRANCO,

Petitioner,

WILLIAM WOLFE, et al.,  
Defendants.

06 AUG 11

9:35

No. 04-230-E

: Magistrate Judge Baxter

: District Judge Maurice Cohill, Jr.

CLERK

U.S. DISTRICT COURT

**PLAINTIFF'S MOTION FOR A RULE 56(f) CONTINUANCE**

AND NOW, comes plaintiff, pro se, respectfully requesting this Honorable Court to grant a Rule 56(f) continuance regarding the defendants cross motion for complete summary judgment and in support avers as follows.

1. Plaintiff has moved for partial summary judgment as it pertains to the retaliatory transfer and wanted to separate the issues to avoid confusion.

2. In response, the defendants have moved for complete summary judgment, coveing all other issues. As stated below, plaintiff is not able to fully or effectively reply to the summary judgment motion as it relates to the medical deliberate indifference claim and violations stemming there from.

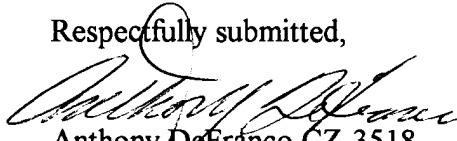
3. Whether to grant a Rule 56(f) postponement is committed to the District Court's discretion; *Ball v. Union Carbide*, 376 F.3d 554, 561 (6thCir.2004). In ruling, the District Court usually balances the moving party's need for the requested discovery against the burden the delay will place on the opposing party. Ordinally, such requests are construed generally and granted liberally; *Simas v. First Citizens*, 107 F.3d 37, n.4 (1stCir.1999)(when Rule 56(f) preconditions are met, a "strong presumption arises in favor of relief"). The delay will cause the

defendants no burden. In the interest of fairness and justice, plaintiff asks the Court to grant a Rule 56(f) postponement.

WHEREFORE, plaintiff prays this Honorable Court will stay the summary judgment as requested herein and stated in the accompanying affidavit in support.

Date: 8/9/06

Respectfully submitted,

  
Anthony DeFranco CZ-3518  
10745 Route 18  
Albion, Pa. 16475-0002

**Certificate of Service**

Service was made by US First Class Mail  
this date to Attorney General's Office 564  
Forbes Ave., Pgh. Pa. 15219.